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# MEDICAL INQUIRY

INTO

THE PROFESSIONAL EVIDENCE AND OPINIONS

GIVEN ON THE LATE

MR. BIRD'S TRIAL

WITH THE

NORWICH LIFE INSURANCE COMPANY.

BY JAMES STARTIN,

MEMBER OF THE ROYAL COLLEGE OF SURGEONS.

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"NASCENTES MORIMUR, FINISQUE AB ORIGINE TENDET."


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LONDON:

LONGMAN, REES, ORME, BROWN, AND CO.  
AND BARLOW, BIRMINGHAM.

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1832.



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## PREFACE.

The Insurance of Life is acknowledged to be of so much importance to society, that an apology for submitting the following pages to the candour of the Public can scarcely be deemed necessary ; but when means and opportunity are thus afforded of rescuing from unmerited obloquy the memory of an esteemed and lamented individual, allied to the Author by ties of consanguinity as well as friendship, his motives for thus trespassing on the Readers' indulgence cannot fail to be duly appreciated.

Again, in a professional point of view, and in connection with medical jurisprudence, the subject is one of considerable interest ; the diagnosis in diseases of the kidney being extremely difficult, and, consequently the prognosis very obscure and inconclusive. Great contrariety of opinion also exists as to the influence of these diseases on the duration of life, even when they are discoverable by the few unequivocal symptoms, which are allowed by the most approved authorities to be characteristic. Every one conversant with pathological researches must recall to mind the very few deaths that his experience can refer to diseases of the kidney ; whilst the instances will be numerous of various and often extensive disorganizations of these glands, which he has met with after death from other causes, but which were altogether unsuspected during the life of the patient.

The Author's practice in morbid anatomy during three years' residence in London for the purposes of study, and his subsequent official connection of five years, with the Birmingham Town Infirmary, and with the Birmingham General Hospital, is confined to four instances of death from diseases in the kidneys in upwards of twelve hundred post mortem examinations of which he has preserved records, and two of these deaths were consequent on diabetes. On the other hand, sixteen cases present themselves where disease of these organs was discovered which produced no symptom during life, and had no relation to the cause of death. In the ensuing remarks, however, no attempt will be made to influence the assent of the Reader to any proposition by reference to the Author's individual experience; his acquiescence shall rest alone on the weight of authentic testimony, and inductive argument; at the same time, his indulgence is claimed for freedom of inquiry, and liberty of discussion.

Finally, the Author begs distinctly to disclaim the intention of any personal reflections on those gentlemen whose evidence is discussed. Opinions alone, and not individual characters, constitute the object of his examination.

## MEDICAL INQUIRY, &c.

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IN the subsequent observations it will be the Author's endeavour to prove from medical authority and reasoning, that the evidence given by the professional witnesses in the late Mr. Bird's Trial with the Norwich Insurance Company, *was not sufficient* to warrant those conclusions which have been very generally deduced from it, together with the *ex parte* statements as they have *appeared in the public Papers*: they may be comprised in the following summary:

*First*, That Mr. Bird was suffering from an incurable organic disease of the kidney, which *was known* to his medical attendants, and was tending particularly to shorten his life, *at the time* the Insurance was effected.

*Secondly*, That the examination after death proved the disease to have been of a *malignant or cancerous* character, (*fungus hæmatodes*), the other parts being *secondarily* affected.

*Thirdly*, That Mr. Bird *died of* this disease *in the kidney* and its consequences.

*Fourthly*, That Mr. Bird himself must have been aware of his labouring under an *incurable disease*; and, consequently, that he *fraudulently* effected an insurance of his life, which the Office would not have accepted had all the facts of his case been explicitly communicated.

It is considered that the best mode of demonstrating the fallacy of the preceding conclusions, will be to bring forward the evidence of the witnesses in question, as taken, verbatim, by the short-hand writers in Court; then to adduce the opinions and evidence of the best written authorities on those positions that require or admit a construction different to the one adopted; and finally, to cite the opinions of the medical gentlemen who were consulted on the part of the plaintiffs.

*Mr. John Ingleby's Evidence, given in his first Examination.*

MR. JOHN INGLEBY, examined by Mr. Sergeant Goulburn.—I am a surgeon residing in Birmingham. In 1827, I was, and am so still, the Medical Referee of the Norwich Insurance Office. I knew the late Mr. Bird. My brother, Mr. C. Ingleby, one of the plaintiffs, told me that he had only a professional acquaintance with Mr. Bird. Being dissatisfied with the appearance of Mr. Bird's health, I called on my brother on the 8th of March, 1827, to ascertain whether or not he had any acquaintance with Mr. Bird. He said his acquaintance was merely professional—that he had no intimacy with Mr. Bird. I saw the deceased Mr. Bird in March, 1827. I put questions to Mr. Bird, respecting the state of his health; he told me that his health was uniformly good, and he referred me to Mr. Shipton to confirm that. Mr. Bird stated very distinctly, that he had had no complaints. When I first knew Mr. Bird, his appearance was very healthy. I cannot say so accurately what his appearance was before 1827. I went to Mr. B. in March, 1827, and at that time he had not a complexion so florid as previously. On that occasion I said nothing to him particular on the subject. I went to my brother on account of Mr. Bird's complexion not being so florid as before. After the Insurance had been effected, I observed, very soon, changes in Mr. Bird's appearance: at times he was more florid; at other times he was paler, and then regained his florid appearance. He subsequently became paler,—this was a few weeks after March,—and then it increased. A considerable period afterwards, in 1830, the 3rd of July, I went to Dr. Pearson. I did not go before, because it then only occurred suddenly to my mind. Mr. Shipton, the referee, had then left Birmingham. I do not know when Mr. Shipton left Birmingham. I felt persuaded that some one had attended Mr. Bird, and I suddenly recollected that Dr. Pearson, when he lived at Sutton, had been sent for to Mr. Bird's sister; and then I went to Dr. Pearson. In consequence of what Dr. P. said, I went to Mr. Lovell, and informed him of what had passed. I wrote to Norwich, and then went to Mr. Shipton, at Chipping Sodbury, near to Bristol, where Mr. Shipton at that time resided. In consequence of what passed between me and Mr. Shipton, I after-



wards saw Mr. Bird, but I did not tell Mr. Bird what passed between me and Mr. Shipton. When I saw Mr. Bird at this time, in October, 1830, he requested me to call upon him. He addressed me rather sarcastically, and said, that if he wished to find out what had passed in his former life, he would employ me. He then became good humoured, and said he was sure I had not done anything but what I considered to be my duty. He said, "you have been to Bristol twice, to see Shipton. Shipton can give you no information about me, for I never employed Shipton, because I had no confidence in him." He said, Mr. Shipton had attended his wife and family. He used a term of contempt, as to Shipton's professional skill, which I had rather not state. Mr. Bird said, that his former illnesses had escaped from his recollection. He said that he had had discharges of blood from the urinary organs before his Insurance had been effected—that he had become well, and had quite forgotten it. He said, he was exceedingly alarmed at the first attack, and had sent to Dr. Pearson under that apprehension: and he begged me to communicate the particulars to the Office. I did not tell him that I had seen Dr. Pearson; he suspected that Dr. P. had divulged the case, because he ceased to employ him. I told him that Dr. Pearson had not volunteered any evidence. Mr. Bird spoke in terms of great severity respecting his medical attendants. His complaint was that they had violated their confidence. I believe I have told all that passed between Mr. Bird and myself, and I communicated it to Mr. Lovell, the Agent. On the 26th of January, 1831, I attended the *post mortem* examination of Mr. Bird. Mr. Hodgson was also present; and the appearances of the body were put upon paper, and it was signed by Mr. Hodgson and myself.—Mr. Startin opened the body. The paper produced was that signed by Mr. Hodgson and myself. Mr. Hodgson attended on behalf of the Norwich; Dr. John Johnstone also attended on behalf of the Executors. The medical men, on both sides, substantially agreed as to the appearances. (*The paper was read.*) None of the Executors of Mr. Bird were present at the examination of the body. Dr. Pearson was not present.

Cross-examined by Mr. Sergeant Adams.—Mr. Bird said that when he was alarmed at the passing of bloody urine, Dr. Pearson

calmed his alarm. Nervous patients are often needlessly alarmed, and, if the case did not warrant it, I should remove the alarm. I say that Mr. Bird informed me that, before he effected his Insurance, he had had several attacks of bloody urine, and on one of those occasions he was very much alarmed. I state that he represented to me that he had voided bloody urine more than once. I should not have recommended him as an insurable life if I had not thought him so. I was not satisfied with Mr. Bird's appearance, and saw my brother. I saw Mr. Shipton, and read his evidence before I recommended Mr. Bird. The Insurance Office wait until they have my authority; then a letter is sent to Norwich; the Norwich accept or reject; and then the Policy comes back: a week or two elapses between my sending and the return. I think I certified within a day or so after the 8th of March, after seeing Mr. Bird. I am certain that I certified. The Policy is accepted at Norwich. My memoranda were made at the time. My certificate is in writing. I have said there was a difference in his appearance when the Insurance was effected. Before I gave my answers I had seen Mr. Shipton's; mine were dated the 8th, and his on the 9th.—I observed Mr. Bird frequently before and after 1827. I watched the changes in his appearance more after than before 1827. I believed that Mr. Shipton attended Mr. Bird. I attended Mrs. Bird, in the beginning of 1829, for Mr. Shipton; I think it was the beginning. I attended perhaps for a week or ten days. I presumed that Mr. Shipton was not attending Mr. Bird at that time. I did not know that Dr. Pearson attended him. I supposed at that time some one had attended Mr. Bird. It was not improbable but that Mr. Shipton had been the attendant of Mr. Bird; I doubted it.—I did not recollect to ask about it. I made no enquiry about Mr. Bird until June, 1830. I did not know of whom to enquire. As Mr. Bird looked much better every now and then, that silenced my doubts. Upon my experience and knowledge as a medical man, an organic disease of the kidney does not produce a marked change in the countenance; that a medical man cannot be mistaken, if it is attended with repeated discharges of blood. When the hæmorrhage ceases, the person regains a comparatively healthy appearance.—There may be some peculiar organic disease of the kidney without



hæmorrhage. I have known thickening of the kidney without hæmorrhage. I mean, that in an organic disease of the kidney, attended with discharge of blood, there might not be any change in the countenance, if the intervals were long. Before the disease had attained a considerable height, I think a medical man might be mistaken. I think in two years a malignant disease might not make much progress; it might last many years without any material change; it depends on the hæmorrhage. The kidney affection which led to the bleeding would produce a change in the countenance. At first the hæmorrhage would produce the changes in the countenance, or by many other circumstances. I examined Mr. Bird before I gave my certificate; I felt his pulse; I took it for granted he was telling me true. The pulse was good. I was the originator of my going to Dr. Pearson. I am quite sure that I went to Dr. Pearson.

Re-examined by Mr. Sergeant Wilde.—The countenance was bleached. That appearance might come on after a recent hæmorrhage, and go off after an interval. The change of countenance is not peculiar to disease of the kidney. I have been referring to the change of countenance produced by loss of blood. The change of countenance would be precisely the same from loss of blood, from whatever cause the loss of blood was produced. Organic disease may exist in the kidney without hæmorrhage; I think it may.—Any organic disease of the kidneys which exposed or opened vessels, would be attended by hæmorrhage; and such a disease would be attended by the alterations of countenance referred to. It would not be possible to tell by the countenance what organs were affected with the hæmorrhage. I observed an alteration in his countenance when I called on him about the Insurance, but none other except what would be produced by loss of blood. I had no more reason for noticing him before the Policy of Insurance than any other person. Observing the alteration in his countenance, my grounds for forming an opinion as to his life being a good one, were,—first, the positive declaration of Mr. Bird that he had never been ill; Mr. Shipton's paper, stating that he was in regular attendance; and the statement of my brother that he was in the habit of meeting Mr. Bird occasionally, and saying that the habits of Mr. Bird were temperate.

To a question by the Judge.—The suspicion that his life was not insurable came across my mind very soon after the Insurance was effected.

By the Jury.—The immediate cause of Mr. Bird's death was, probably, the effusion in the chest consequent upon the disease of the kidney. This is a common termination of that disease. I think the tumour had been ten years forming; I think a considerable period of time; I cannot mention the precise time.

*Dr. Richard Pearson's Evidence.*

RICHARD PEARSON, M. D., examined by Mr. Sergeant Wilde. I am a Physician, and I have practised in Birmingham, during my last residence, six years. I have practised altogether as a physician forty years, and the greater part of that time in Birmingham, but thirteen years in London. I was called to attend the late Mr. Bird, for the first time, in the early part of the year 1825. I think it was in June that I first went to him. The symptoms under which he then laboured indicated an attack of gravel. The symptoms were considerable uneasiness in the kidneys, in the lumbar region, without any bloody urine then; the urine was high coloured, with disturbance of the stomach and bowels. I made enquiry of Mr. Bird as to any deposit of gravel in the vessel under the bed.—He said he had never observed any deposited from the urine; but that did not satisfy me, for the symptoms indicated it, and though there was no sand, the symptoms and colour indicated gravel. He complained of uneasiness in the right lumbar region, and I pressed upon it, and I asked him if he felt uneasiness from my pressing? He answered he did. I prescribed for him. My medicines were directed to relieve an attack of gravel. The patient received temporary relief, but he still continued to suffer from symptoms resembling those of gravel, but which afterwards turned out not to be those of gravel. My attendance began in June, 1825, and on my third visit I began to entertain a suspicion that it was not gravel. About the end of the year he began to have a slight attack of bloody urine, and then I began to be convinced that his symptoms did not proceed from gravel, and that I had mistaken the cause, because there

was no discharge of gravel, and because the medicines adapted to remove an attack of gravel had not produced the effect which they would have done had the symptoms proceeded from gravel. He had at this time the discharges of bloody urine; the duration of the first attack of bloody urine was twenty-four hours. After ceasing for four or five days, upon the return of any exciting cause, the hæmorrhage would return. When the hæmorrhage ceased, he laboured under indigestion and costiveness. During the intervals the patient would complain of a sense of fullness and dull pain.—Error in diet, or a glass or two of wine more than usual, or jolting in a carriage, would occasion a return of hæmorrhage. Too much application to business, or anxiety of mind, would produce the same. I observed a remarkable alteration on the 19th of March, 1826, for the worse. The hæmorrhage was much more profuse than formerly. I now ascribed the cause to disease of the kidneys. The symptoms which occurred between December, 1825, and March, 1826, were consistent with organic disease. I observed the nature of the discharges, and found the urine to contain a great quantity of blood. The blood was diffused throughout the whole of the urine. There were some very small clots at the bottom, the size of a pin's head. I found that the patient's health became more and more impure, and that his spirits became depressed, and that he was in an irritable state. I then considered him in a state in which medicine would afford him relief, but no cure. The loss of blood had a very considerable effect upon his general health. It lowered his pulse, and gave rise to general debility. On March 19, 1826, Mr. Wood was called in. Mr. Wood is a very eminent surgeon, in Birmingham. At that period I did not consider that the organic disease was malignant, but was satisfied that it was an organic affection of the kidneys. By the term malignant, I meant synonymous with that which will prove fatal. Something which, within it, contains a virus. My prescriptions were principally directed to relieve the general disturbance of the system—to relieve the general health. The only time which I met Mr. Wood in consultation was this, on the 19th of March, 1826. I continued my attendance to the end of the year, 1826. During that time Mr. Bird got worse. The particular organic disease got worse, as was made manifest by

the pain in the lumbar region and the return of the bloody urine. It is usual in such a disease, as I believed Mr. Bird to labour under, for the hæmorrhage to be occasional. The progress of such a disease had a tendency to undermine the constitution and destroy life. The disease had a tendency to extend itself to glandular and other parts. Dropsy is not necessarily consequent on this disease, but is a frequent consequence of the disease of the kidneys. A confirmed organic disease of the kidneys is a disease which would unquestionably tend to shorten life. The rapidity of its progress may be accelerated by external causes. It would go on, but more rapidly by exciting causes. The patient, when the disease was once established, would be more or less subject to pain at all times. An attorney certainly might carry on his profession if labouring under the disease, but not with that intensity as he would if in perfect health. Mr. Bird possessed great energy of mind, he had a great deal of mind in his composition. Some constitutions were less likely to be subdued by pain than others. Mr. Bird was of that description. He possessed great elasticity of mind, and did not give way to his feelings. I was residing in Birmingham in 1827. No application was ever made to me for an opinion, in the event of an Insurance being effected. I first came to the knowledge of the fact of an Insurance being effected, I believe from Mr. Ingleby, in the summer of 1830, but cannot say positively. That was during Mr. Bird's life. I was afterwards applied to by Mr. Lovell, on behalf of the Office. I believe Mr. Ingleby's application was the first. I did not attend at the *post mortem* examination. I have read a detail of the symptoms, written by Mr. Hodgson and Mr. Ingleby. I have read attentively their detailed appearance. I have heard the examination of the person who cupped Mr. Bird. From the detail of the *post mortem* examination, and the statement of Mr. Thompson, I have no doubt but that Mr. Bird laboured under an organic disease in the kidneys, in the beginning of the year 1827, and before March, because he had symptoms of confirmed disease of the kidneys when I left off my attendance, three months before. From the statements of Mr. Hodgson and Mr. Ingleby, the progress of the disease there marked is consistent with my experience of the progress of the disease. There are several names by which this disease



is designated ; one is *fungus hæmatodes* : it is the tendency of that disease to extend itself to other parts. I find that those other parts to which such a disease has a tendency to extend itself, were diseased in Mr. Bird. The usual course by which this disease tends to produce death, are pain and irritation, the formation of morbid depositions formed within the substance of the kidney, being in part absorbed, the whole system becomes contaminated, and the constitution is poisoned and worn out. The fungoid state of the kidney produces the morbid depositions. Organic diseases of the kidneys, of this kind, may be either of a slow or rapid progress ; in general of a slow progress. The unavoidable termination of such diseases is death.

Cross-examined by Mr. Sergeant Adams.—The first time I mentioned my attendance upon Mr. Bird to Mr. Ingleby was in the summer of 1827. Told Mr. Ingleby, in 1830, that Mr. Bird voided bloody urine. Can't say that Mr. Ingleby called upon me two or three months after I gave up my visits to Mr. Bird, in 1826. I left off attending Mr. Bird at the close of 1826 ; and did not, to the best of my recollection, again enter the house, professionally, after that time. I had no quarrel with Mr. Bird. Did not recollect the story of a sovereign. Never heard of it. Should be glad to hear of it from you. I have said Mr. Bird might call me Dr. Double-fee if he liked, and should have been very glad if he had verified it.—*(Laughter.)* I never had a quarrel with him about a fee. At the time I ceased visiting Mr. Bird, he shewed symptoms of fullness, indigestion, and impaired health. He was in a state of great bodily irritability. These were all the symptoms at that time. I have frequently seen bloody urine—perhaps four times—and, to accommodate you, will say perhaps twice. Mr. Bird, besides these instances, twice told me he had voided bloody urine. To the best of his recollection, he voided bloody urine in September, 1826. While the disease was functional, he would be subject to pain, more or less. Mr. Bird was a lively, active, vivacious man. From the *post mortem* examination, I believe the disease of the bronchial glands might result from the diseased kidneys. The diseased state of the mesenteric glands did not proceed directly from the diseased state of the kidneys, but indirectly from the disordered state of the general



health, produced by the disease of the kidneys. I think this was very probable, and I think it was so. The disease of the glands was of a tubercular nature, and I believe that might be produced by the disease of the kidneys. I think the disease of the glands was rather of a cancerous than of a scrofulous nature; it would have been more likely to arise from disease of the kidneys if it were cancerous, than if it were scrofulous. The glands, when cut through, exhibited the same diseased appearance as the kidneys did. It is more likely that the disease of the kidneys would produce the diseased glands, than the converse. I believe the disease in the kidneys existed before the disease in the glands, because there had been unequivocal symptoms of the disease in the kidneys for several years, and not in the glands. From *post mortem* examination alone, it is more probable that the diseased kidneys caused the diseased glands, than the diseased glands caused the diseased kidneys. My reason for thinking the disease found in the *post mortem* examination was *fungus hæmatodes*, are these—first, its prodigious magnitude, then its deep red and vascular structure, somewhat resembling the spleen. The disease of the glands was of the same kind as that of the kidney; the glands when cut through exhibited the same appearance as did the kidney, excepting the difference of structure.

Re-examined by Mr. Sergeant Wilde.—My reason for saying that the diseased state of the bronchial glands might be produced by the disease of the kidney, was, that it would be caused by the absorption of the virulent matter in the kidneys, and this would be done by the medium of the circulation.

Re-examined by Mr. Sergeant Adams.—They presented most of the appearances as exhibited in the kidney, save that they exhibited none of the red vascular structure. Supposing this to be the correct appearance of the bronchial glands, would you still say that the disease was the same as in the kidney? I do; but think that the disease had not gone on to the same extent as in the kidney.

Re-examined by Mr. Sergeant Wilde.—The paper signed by Mr. Hodgson and Mr. Ingleby, states this of the lumbar glands, not of the bronchial glands. The tumour which I called *fungus hæmatodes* is called by other names by different medical men, by some it is called soft cancer.

By Mr. Sergeant Adams, (through the Judge.)—The other names given to the *fungus hæmatodes* are, medullary fungus, soft cancer, bleeding cancer; those are all which I can recollect at present.

*Mr. John Ingleby's Evidence.—Second examination.*

Mr. Ingleby, surgeon, examined by Mr. Goulburn.—My christian name is John. I attended the *post mortem* examination. I have been in Court, and heard what Dr. Pearson, Mr. Thompson, and Mr. Clarke said. From what I saw at the examination, and what I have heard this day, most indisputably Mr. Bird had organic disease of the kidney at the time of effecting this policy.—That is a disease particularly tending to shorten life. It is a disease tending to shorten life. It is particularly so. It is a disease of which the progress is generally slow. It varies. A disease of that description is very frequently accompanied by a discharge of bloody urine. In cases where it is accompanied by a discharge of bloody urine, the discharge is occasional, for the most part. Pain about the lumbar region is a usual symptom of that disease. The lumbar region is the seat of the kidneys. In the majority of these cases there is pain, more or less, which would, I think, be felt more acutely in an erect position. A person with that disorder would be able to go about. This disease was of a malignant kind from the commencement, in my judgment. It was beyond the cure of all medicine. It was beyond the cure of medicine from the very first. I consider that it was malignant from the beginning of the complaint. It was so in my judgment. I called this tumour a fungoid growth. It goes by different names among different medical men. It is called *encephaloid* by some. The tendency of a tumour of this kind is to implicate other organs, especially those of the same structure or office. Making an allowance for some difference of structure, the lumbar and bronchial glands were affected in a similar manner. I have never seen the lumbar or bronchial glands primarily affected. They are always affected from some more important organ. The kidney is an organ of this latter class. In my judgment, all the morbid appearances had reference to that as the primary cause; that

is, the disease of the kidney, which, in my opinion, preceded and caused all the other morbid appearances. This might be accounted for by absorption: first by the blood. The glands might be affected either by contiguous sympathy or by absorption. I consider absorption as the most probable. By contiguous sympathy I mean that tendency by which parts whose structure is at all similar, are affected in a similar manner to a more important part primarily diseased. Absorption was the means in this instance, I think, because it was a malignant disease. The absorbent vessels pass into the glands, called the *vasa inferentia*; they carry a peculiar fluid: a certain change is wrought on the fluids while in the glands. Another vessel proceeds from the gland called the *vas efferens*: the vessels ultimately unite with others into one large trunk, which is called the trunk of the absorbents. The fluids thus absorbed are carried into the system. There are absorbent vessels from the kidneys to the lumbar glands. The lumbar glands may be affected directly from the kidneys, without going the round of the circulation. In my judgment, the system would become affected from such a disease in the kidneys as the present one. There was some coagulated blood in the bladder. The bladder and the prostate gland were perfectly sound. The blood would be the result of a disease in the kidneys. The immediate cause of death was, I think, the effusion into the chest; and such, in my opinion, would be a common termination of this disease. The water was a bloody serum, and such is often the case of all important diseases of the body, and this organic disease of the kidneys was the immediate cause of the water. The organic disease of the kidney preceded and caused all the rest.

Cross-examined by Mr. Humphries.—I mean by malignant disease, a disease which is essentially incurable; I mean a disease in which there is a communicable and propagated virus. I think this disease was not very active, from the length of time. Supposing the disease to have been active, I think it might have produced the same effects in a much shorter time. I think not in a few months. I think that in five years it might have produced the appearance as seen at the *post mortem* examination, according to what I have seen, and supposing the disease to have been active. In my judgment, as a medical man, it would have taken that time, and not

less, supposing it to have been very active. I have stated that there is one way of communicating the disease, by absorption, to the lumbar glands directly ; but to the bronchial glands only by the general circulation. I term a malignant disease one having a virus ; and this could have produced the effects as seen at the *post mortem* examination, in not less than five years ; and I do not know that this would have produced a very marked change in the countenance early, so as to have been recognized by a medical man. I think a malignant disease, very limited in extent, might be going on for five years without producing any marked effect on the countenance. I saw the appearances at the *post mortem* examination, and assuming that it had been going on for five years, the appearance in the countenance would have been indicated to a medical eye at the latter stages of the disease. I cannot say when this would have been indicated by the countenance. I should think a year before death, at least. It would have indicated a malignant disease, but not of the kidneys particularly. I have spoken of the discharge of bloody urine. The discharge may come from the bladder, or the kidneys, or the prostate gland, if they were diseased ; or from the urethra, if the bladder were affected by ulceration. The jolting of a carriage might cause it to come from the bladder ; but in this case there was no disease of the bladder. I saw Mr. Bird, living, for the last time, on the 15th of October, 1830. I might have seen him afterwards.

Re-examined by Mr. Sergeant Goulburn.—I have seen but one case, of five years duration, of that disease affecting this part. I have been acquainted with many diseases of the kidney, but this is not a common disease. Bloody urine certainly could not have been produced from other parts, without giving local pain in those parts. It could not have proceeded from a bladder quite sound. There was nothing in the countenance by which I could tell that the disease was in the kidney. In the one case which I alluded to, I date the five years from the commencement of the organic disease. In that one case there were repeated attacks of bloody urine, more or less, as in this case. Bloody urine was one of the first symptoms in that case ; there was a dull pain in the back, in the seat of the kidneys.



By the Judge.—In that case I date the commencement of the organic disease from the time of the bloody urine. Bloody urine is not an infallible symptom of organic disease of the kidney. My reason for dating the commencement of the disease at the time of the bloody urine, was, because the disease continued increasing, and terminated life, as in the case of Mr. Bird. I think that it is eight or nine years ago, since that case ended, and it commenced four or five years before that; but I cannot remember the precise time when it commenced. I believe the name of the patient was Smith, and she lived in Fazeley-street. The examination of the case was witnessed by Mr. Rowlason, since dead.

*Mr. Joseph Hodgson's Evidence.*

Joseph Hodgson, examined by Mr. Sergeant Wilde.—I am a surgeon at Birmingham, and have lived there thirteen years. I was present at the examination of Mr. Bird's body, and the paper produced was written by me, in conjunction with Mr. Ingleby, and the appearances there described are correct. I am not connected with the Insurance Office. I am surgeon to the Hospital. The organic disease of the kidney, I believe, caused Mr. Bird's death. The report of the appearances in the body only, would not have furnished a reason as to the period of the existence of the disease. I have attended to the evidence given as to the discharges, and to the pain in the region of the kidneys. The statement of these symptoms, and the appearances of the body, would enable me to judge that the disease had existed at the beginning of the year 1827. According to my experience and judgment, I believe it did exist at that time. Attending to the nature of that disease, and the symptoms during life, the disease is of a nature tending to shorten life. According to my experience, that disease is of such a character, that it admits of persons performing the ordinary duties of life. In my detailed report, there is this statement on dividing the tumour—"in other parts it had a brain or putty-like appearance;" and I think that characteristic of this disease. That is a peculiar characteristic of a morbid formation, which has been described under different names. *Fungus hæmatodes* is one of those names. "Supposing you to be



aware of the symptoms described by Dr. Pearson in 1825 and 1826, were they material in May, 1827, before such an insurance should have been effected?" Mr. Hodgson replied in the affirmative.

Before an examination of the *conclusions* naturally deduced from the preceding evidence can be entered upon, it will be necessary to premise that Dr. Pearson saw the late Mr. Bird, professionally, *six times only*, in the *eighteen months* he attended him; that, on his third visit, bloody water first made its appearance; and that the following medicines were prescribed, which can require no further comment, than that they are such as usually would be directed *in a case of Indigestion*, accompanied with irritation of the urinary organs; and that, by the most ingenious sophistry, they cannot be proved to have been applicable *to the organic disease* under which Mr. Bird is so confidently *represented* to have laboured.

#### VISIT THE FIRST.

R̄ Sodæ Carbonat:

Magnesia Carbon: aa ʒ ʒ

Fiat Pulvis bis terve die sumendus ex aquæ tepidæ Haustu.

Mitte Pulv: ix.

June 6, 1825.

R. P.

#### VISIT THE SECOND.

R̄ Fol: Uvæ Ursi ʒ ʒ

Magnesia ʒ ʒ m. fiat

Pulvis bis die sumendus cum cochlearibus tribus amplis Misturæ sequentis.

R̄ Mist: Camph: ʒ vii.

Tinct: Cardam: ʒ vi.

Mitte Pulv: dos vi.

March 19, 1826.

R. P.

## VISIT THE THIRD.

R Pulv : Rad : Sarsaparillæ, 3 ℥  
Magnesiæ, 9 ℥

Fiat Pulvis ter die sumendus.

Mitte Pulv : vi.

R Linim : Ammonia, 3 ii.  
Camphor, 9 ij.

M. fiat Linimentum bis die adhibendum.

Sep. 13, 1826.

R. P.

## VISIT THE FOURTH.

R Mist : Camphoræ 3 vii ℥

Ammon : Carb : 9 ij.

Sp : Æth : Nit : 3 iii.

M. Sumat Cochlearia tria ampla 4tis horis.

Sep. 16, 1826.

R. P.

## VISIT THE FIFTH.

R Pil : Hydrarg : gr. v.

Pulv : Antimonialis, gr. iv.

Syrup Simpl : s. s.

Ut fiant Pilulæ duæ h. s. sumendæ.

Dec. 12, 1826.

R. P.

## VISIT THE SIXTH.

R Infusi Calumbæ 3 iv.

—— Quassia 3 iii.

Sodæ Carbon : 3 i.

Tinct : Cardam : compos : 3 vi.

M. Sumat cochlearia tria ampla bis die.

Dec. 13, 1826.

R. P.

## CONCLUSION THE FIRST.

The first conclusion proposed to be examined, is drawn from Dr. Pearson's evidence, although, indeed, his opinion is subscribed to by the other medical witnesses on the same side, viz:—"That Mr. Bird was suffering from an incurable organic disease of the kidney, which was known to his medical men, and was tending particularly to shorten his life at the time the insurance was effected." Now the symptoms, as stated in Dr. P's. own words, were the following, "Upon my third visit, I began to entertain a suspicion that it (Mr. B's disease) was not gravel. About the end of the year, he began to have a slight attack of bloody urine, and then I began to be convinced that his symptoms did not proceed from gravel, and that I had mistaken the cause; because there was no discharge of gravel, and because the medicines adapted to remove an attack of gravel, had not produced the effect they would have done, had the symptoms proceeded from gravel. He had at this time, the discharges of bloody urine. The duration of the first attack of bloody urine was twenty-four hours. After ceasing for four or five days,\* upon the return of any exciting cause, the hæmorrhage would return; when the hæmorrhage ceased, he laboured under indigestion and costiveness; during the intervals, the patient would complain of a sense of fullness and dull pain."

These, then, are the symptoms which Dr. Pearson, and the witnesses who follow him, by a peculiar species of medical reasoning, refer to organic disease of the kidney. It is granted that Mr. Bird made bloody urine three or four times; that he had also indigestion and pain in the loins; and further, that Dr. Pearson's medicines failed to relieve him. Must he, therefore, have been suffering from organic disease? The evidence would lead you to believe the fact was certain and undeniable, but to how many varied sources would not the intelligence of medical men have referred such symptoms. And what argument can be grounded on medicine having failed to produce its intended effect, by whom-

\* The interval of *a month or two* between Dr. Pearson's visits, *will prove* what means he had of ascertaining this fact. He afterwards affirms, however, *to have seen bloody urine twice only.*

soever prescribed. As, therefore, it is admitted there were no further guides to the conclusion, may not its accuracy be fairly impugned? It is acknowledged there was no tumour, no defect in the quantity or quality of the urine, when unmixed with blood; no pain in the thigh on the side affected, or affection of the testicle; no nausea or sickness; in short, none of the few unequivocal signs of disease in the kidney, which are laid down by the best authors who have written on the subject;\* indeed, many of the most esteemed authorities *deny the existence of any symptoms, which can be relied on to distinguish organic disease.* For instance, Dr. Prout thus expresses himself:—"Besides affections of the kidney, which are the usual consequences of inflammation," (which he elsewhere observes, are met with after death, but which in life, have "no known characteristic symptoms"), (1) "a variety of other chronic diseases of that organ have been noticed by different authors, *the peculiar symptoms of which are so obscure*, for the most part, that their exact nature can hardly be ascertained during the life-time of the patient: such are different affections of *a supposed malignant character as Fungus Hæmatodes, Cancer, &c.*" (2) Dr. Baillie thus corroborates these views, "The symptoms which mark a scirrhus state of the kidney are *unknown* to me; and I do not find they are distinctly marked by authors." (3) Portal, also, when considering the numerous diseases of the kidney writes thus, "Les observations recueillies avec tant de soin par les anatomistes font voir combien les reins sont sujets a ces divers engorgements, mais que malheureusement on ne peut les distinguer que par des signes equivoques." (4)

Dr. Pemberton also observes, "It is not so difficult to distinguish an affection of the kidneys from diseases of the other parts surrounding them, as it is to distinguish it from the other parts of the urinary system. The sensations are so readily communicated by sympathy, from one extremity to the other of this system, that

\* See Pemberton on the Viscera, 4th Edit., p. 77, 78, and 80; and Portal Anatomie Medicale, tom. v, p. 389.

(1) Prout, Diseases of Urinary Organs, 2nd Edit., p. 216.

(2) Idid, p. 217.

(3) Baillie's Morbid Anatomy by Wardrop, vol. ii. p. 257.

(4) Portal Anatomie Medicale, tom. v. p. 382.

*the same set of symptoms attend, wherever derangement in the urinary organs may exist.* For example—a stone in the bladder shall give all the sensations of a disease in the kidneys: and again, a calculus in the kidneys shall give all the sensations and symptoms of a disease in the bladder. This obscurity will show the great caution which is necessary in pronouncing on the disorders of the urinary passages.” (1)

Again, Cruveilhier writes, “Rien de plus difficile que le diagnostic du cancer du rein: le plus souvent il n'existe *aucun symptôme locale*; un déperissement insensible, un malaise général révèlent seuls l'existence d'une lésion organique aussi profonde, et c'est souvent *par hasard* qu'en promenant sa main sur les diverses régions de l'abdomen, le praticien a découvert ce qu'il ne cherchait pas.” (2)

“Le diagnostic, difficile pour le rein gauche, l'est encore bien davantage pour *le rein droit*, qui se trouve en grand partie caché par le foie et qui semble se continuer avec lui.” (3)

“La tumeur volumineuse, arrondie, que portait le malade dans le flanc droit, tumeur que j'eus occasion de constater pendant la vie, paraissait aux uns appartenir au foie, aux autres occuper le tissu cellulaire qui avoisine le rein; il était encore possible qu'il le colon ascendant induré simulât cette tumeur; fondés sur les hématuries antécédantes, nous pensâmes que la tumeur avait son siège dans le rein, *mais sans pouvoir en préciser le caractère.*” (4)

“And, finally, Morgagni thus corroborates these opinions,—“The diagnosis of these diseases,” (those of the kidney), “even when sought with the utmost skill and attention is *frequently deceitful.*” (5)

As a further proof of the obscurity of organic diseases in the kidney, a communication by Sir Gilbert Blane, in “The Medical Observations and Inquiries,” may be cited. The case was attended by Dr. A. Monro, in the Edinburgh Infirmary, and the

(1) Pemberton on the Viscera, Edit. 4, p. 81 and 82.

(2) Cruveilhier *Maladies du Rein*, liv. i, p. 3.

(3) *Ibid*, p. 4.

(4) *Ibid*, p. 4. See also, Lafosse *nouvelle Bibliothèque médicale*, 1825.

(5) Morgagni, by Cooke, vol. ii. p. 303.



patient was “a woman fifty years of age; she complained of *nothing but a gradual distention of her abdomen*, which at last arrived at a most enormous size: she was tapped twice, but the discharge was inconsiderable. On dissection, the left kidney was found to be exceedingly indurated, and to weigh *forty-five pounds and a half*. This woman had no complaint of the urinary organs.” (1)

Cases of hæmaturia, in which *no post mortem appearances* were discovered, are related by Morgagni and Chopart. Desault and Latour also mention the secretion of blood, instead of urine, *without any obvious cause*.

These authorities, which might be greatly multiplied, it is believed, must, at least, satisfy the inquirer that the two symptoms alone mentioned by Dr. Pearson, of *pain in the back, and bloody urine*, are not sufficient data to establish the existence of organic disease in the kidney or elsewhere, as the former symptom may be referable to rheumatism affecting the lumbar fascia; to inflammation of the cellular membrane under the psoas muscle; to caries of the lumbar vertebræ, or diseases of the spinal chord in the same region; to enteritis, to glandular or other visceral affections in the abdomen; to aneurisms; and to diseases of the liver. The latter symptom alone, or the two combined, may be attributed to calculus, or irritation in the ureter or in the bladder; to tumours, polypi, or aneurisms involving these parts; to sanguineous congestions, or functional derangement of the kidney, of the mucous membrane of the bladder, or of the urethra; and to enlarged or diseased prostate. The points, therefore, remaining for discussion on this division of the inquiry, will be, whether the symptoms cited, constitute *in themselves* organic disease, and whether they can be considered as particularly tending to shorten life?

As respects the pain in the lumbar region, the argument can deserve no serious refutation; and with regard to the hæmaturia, perhaps, the following opinions may enable us to form a correct conclusion:—

(1) Medical Observations and Inquiries, vol. vi. p. 245.

"The loss of blood by the urethra is *seldom so large as to be in itself dangerous.*" (1)

"The source of blood in the urine may be *various*, and is *often very obscure.*" (2)

"One of the *most formidable cases of hæmorrhage from the kidney* that I ever saw, and which baffled for a long time every means that the most experienced practitioners could devise, *yielded almost immediately to colchicum and the use of a strong infusion of the uva ursi*, and the gentleman continued tolerably free from the affection for nearly two years; latterly, however, it has returned again in a slight degree. *The cause of the affection in this case was very obscure*, as there were no symptoms of calculus in the kidney, nor did he inherit gout." (3)

"Hæmorrhage from the urinary passages is *not uncommon*; it is usually occasioned by calculus, or by external injury. When it takes place to any amount, the mind of the patient is impressed with the greatest anxiety: we may, however, *securely promise* him that his complaint is *devoid of danger*, as the bleeding will soon either subside of itself, or be readily restrained." (4)

The following testimony of the illustrious Frank is added:—  
"Inter tredecim millia sexcentos et quadraginta septem homines, (13647) in nosocomio universali Viennensi defunctos, *non nisi unicum ex hæmaturia obiisse reperimus.*" (5)

"Passive hæmaturia is *not dangerous* but sometimes *salutary.*" (6)

The illustrious Sydenham, who died at the age of sixty-five, suffered from hæmaturia in his own person during the last *thirteen years of his life*, and wrote a chapter, *De mictu Sanguineo, &c.* (7)

"La marche et la durée de l'hématurie *n'ont rien de constant*; sa termination est *ordinairement heureuse*, quand l'hémorrhagie est

(1) Dr. Prout on the Urinary Organs, 2nd edit. p. 296.

(2) Ibid, p. 297.

(3) Ibid, p. 299.

(4) Dr. Pemberton on the Viscera, 4th edit. p. 98.

(5) Frank de Cur: Hom: Morb: vol. v. p. 250

(6) Parr's Med. Dict., p. 690.

(7) Sydenham, Opera Universa, p. 523.

idiopathique, celle qui a lieu dans les maladies aiguës ou dans le scorbut, est on ne peut pas plus grave." (1)

These are a few amongst many evidences, which might be produced to show the *insignificance* of bloody urine as a symptom, or *as a disease particularly tending to shorten life*. But even supposing that Mr. Bird *was* a sufferer from disease in the kidney, (which after this testimony no one can have reason to do, judging only from the statement of Dr. Pearson, at the time he attended) is such disease when properly treated, to be regarded as an *incurable affection*, and, consequently, particularly tending to shorten life? The following quotations, *from the most valued sources*, are submitted as the best argument against such an hypothesis:—

"In some instances, I have known patients walk about for several weeks, and even months, whilst they laboured under chronic inflammation of the kidney; but it is one of those affections which sometimes *exists a long time before suppuration takes place, and it may, therefore, be removed occasionally under a conjunction of very unfavourable signs*." (2)

"With respect to the prognosis in affections of the kidney, this will vary with the nature of the complaint: *generally it is not so unfavourable* as might be expected, not that many of the diseases of the organ can be cured, but probably, as Dr. Baillie has observed, that very extensive disorganization of this organ does not interfere with its functions; 'that a very small portion of the natural structure of the kidney is capable of secreting very nearly the ordinary quantity of urine:' (3) frequently, also, only one kidney is affected, and in this case, the other soon apparently becomes capable, by its increased action, of performing the office of both. Whatever may be the cause, *it is certain that individuals exist for a great number of years with extensive diseases of the kidney*, (especially those connected with calculous affections), without being remarkable sufferers, *and at last die from other diseases*." (4)

(1) Chomel Nouveau Dict. de Med. chez Gabon, &c.

(2) Armstrong on Chronic Diseases, p. 406, 2nd edit.

(3) Baillie's Morbid Anatomy, vol. ii. p. 253.

(4) Prout on the Urinary Organs, 2nd. edit. p. 217, and 216.

"The prognostic in diseases of the kidney should be guarded, for it is at all times impossible to ascertain the exact extent of the mischief, for the reasons above given; *however, on the whole, I think it may be reckoned a disease attended with little danger.*" (1)

"Un rein steatomateux été trouvé dans un sexagénaire; il pesoit soixante livres." (2)

"Madame de Laborde, âgée de 82 ans, dont j'ai fait l'ouverture du corps, ne s'étoit jamais plainte d'aucune douleur dans les lombes; elle n'avoit même jamais éprouvé de la difficulté d'uriner: et cependant on trouva ses reins tellement remplis de concrétions pierreuses, qu'ils paroissent en remplir la totalité, au point que celles d'un rein, pesoient environ deux onces, et que celles de l'autre rein pesoient un once et demi." (3)

"A great proportion of one kidney may be destroyed by disease and yet the patient recover." (4)

"Large stones have been repeatedly found in the bladder, and extensive ulcerations in the kidneys, without having in the least diminished the bulk of the body, or shewn *any symptom during life by which their existence had been suspected.*" (5)

It is considered that a sufficient variety of *authentic evidence* has now been cited, on this division of the subject, to warrant our drawing conclusions *directly opposed* to those assumed by the witnesses on the other side; consequently, that the late Mr. Bird, when he effected the insurance of his life, *was not suffering from organic disease in the kidney*; that, even if such had been the case, *it could not, by possibility, have been ascertained by any medical man, for no unequivocal symptoms of such affections are known in the science of medicine*; and, finally, that the pain in the lumbar region, the passing of bloody urine, and the indigestion, *justified a prognosis entirely favourable*; and that these simple symptoms would probably have yielded to the ordinary antiphlogistic remedies, had such been employed.

(1) Pemberton on the Viscera, 4th. edit. p. 89.

(2) Portal Anatomie Médicale, tom. v. p. 389.

(3) Ibid, tom. v. p. 384.

(4) Dict: des Science Medicales, tom. xlvii. p. 346.

(5) Pemberton on the Viscera, 4th. edit. p. 82, and 83.

## CONCLUSION THE SECOND.

The second conclusion, that “the examination after death proved the disease to have been of a malignant or cancerous character, (*fungus hæmatodes*), *the other parts* being secondarily affected,” remains to be next examined. This assumption is founded on the expressed opinion of the three medical witnesses, and on the “Report of the Post Mortem Appearances,” by Messrs. Hodgson and Ingleby; of which the following is a copy. The portions which are printed in *italic*, constitute the difference between *their report*, and that written by the author, and signed by Dr. Johnstone and Mr. Wood, which is printed in the second column.

REPORT OF THE MORBID APPEARANCES OBSERVED  
ON THE BODY OF RICHARD BIRD, ESQ., JANUARY 26, 1831.

The examination took place sixty-two hours after death.

*Report by the Medical Men employed  
by the Insurance Company.*

*General Appearance.*—The external appearance of the body was very much altered by putrefaction. *In some parts the cuticle had separated from the cutis.* The cellular membrane of the thorax, abdomen, scrotum, penis, and of the upper portions of the extremities was distended with gas. The limbs and scrotum were considered to be slightly anasarcaous.

*Abdomen.*—The stomach and bowels were much distended with air. The bowels were of a light red colour, but in other respects they presented no unusual appearance. The liver, the gall-bladder, the pancreas, the aorta, the inferior vena cava, the left kidney and its ureter, were all

*Report by the Medical Men employed  
by the Executors.*

*General Appearance.*—The external appearance of the body was very much altered by putrefaction, which had advanced so far as to produce a separation of the cuticle in some parts. The cellular membrane of the thorax, abdomen, scrotum, penis, and of the upper portions of the extremities was distended with gas; and on removing the body, a quantity of bloody-looking serum escaped from beneath the cuticle of the loins, and was collected from a hollow in the bed. The precise measure of this fluid was not ascertained; but it filled the third of an ordinary washing basin.

*Abdomen.*—The stomach and bowels were much distended with flatus, and contained little fecal matter. The bowels were of a light red colour, but in other respects they appeared to be healthy. The liver, the gall-bladder, the pancreas, the large abdominal blood-



*in a healthy state. The left kidney weighed six ounces avoirdupois; it was rather paler in appearance, and more flabby than usual. The prostate and bladder were healthy: the latter contained a little highly-coloured urine, and a clot of coagulated blood, in form and size resembling a small leech. A tumour about the size of three fists, of a lobulated form, occupied the situation of the right kidney: and when it was detached from the neighbouring parts, this tumour weighed 2½lbs. This tumour, in its external form, somewhat resembled that of a kidney. The right ureter was slightly enlarged; it was pervious throughout, about four inches from the bladder it contained a calculus, as large as a small horse-bean. Upon tracing the ureter upwards, it was found to terminate in the tumour. At its termination, the ureter was somewhat expanded: and this expansion was regarded as the pelvis of the kidney. The tumour was divided longitudinally: it consisted of a variety of morbid structures. In some places there was a deep-red and vascular structure, somewhat resembling spleen; in other parts there was a deposition of a soft caseous substance, of a white or yellowish appearance, very similar to what is found in strumous glands; in other parts it had a brain or putty-like appearance. These substances were of various consistencies, and in some places appeared to be contained in defined cysts. No vestige of kidney could be traced in any part of the tumour, except upon its external surface, which, as well as in its general form, presented the appearance of the cortical part of the kidney; and the whole was inclosed in a dense cellular membrane, from which it was easily detached, and which closely resembled the proper capsule of the kidney.*

*A cluster of the morbid formations, supposed to be glands, surrounded the large abdominal blood-vessels, and extended towards the pelvis. When cut through, these structures exhibited most of the morbid appearances found in the right kidney. Note, the difference refers to the entire absence of that deep-red grumous appearance,*

*vessels, the left renal capsule, the left ureter, and the left kidney (which weighed six avoirdupois ounces) were all in a perfectly healthy state. The prostate and bladder were healthy: the latter contained a little highly-coloured urine, and a clot of coagulated blood, in form and size resembling a small leech. A tumour about the size of three fists, of a lobulated form, occupied the situation of the kidney in the right lumbar region, and was supposed to be this organ in a state of disease. Its general outline somewhat resembled the kidney. On its separation from the lumbar glands behind it, which were likewise much enlarged, this tumour was found to be enclosed in the cellular capsule of the kidney, and to weigh 2½lbs. The right ureter was slightly enlarged; it was pervious throughout, and about four inches from the bladder it contained a calculus, as large as a small horse-bean. Upon tracing the ureter upwards, it was found to terminate in the tumour. At its termination, the ureter was somewhat expanded; and this expansion was regarded as the pelvis of the kidney. The tumour was divided longitudinally: it consisted of a variety of morbid structures, in which no natural organization could be detected, except on its external surface, where it presented an appearance somewhat analogous to the cortical portion of a sound kidney. In some places there was a deep-red and vascular structure, somewhat resembling spleen; in others it was white, or yellowish, and contained small cysts, filled with caseous or putty-like deposition, very similar to what is found in strumous glands; of various consistencies, in different portions of the tumour.*

*The lumbar glands were very numerous, and much enlarged, some having a size nearly equal to the sound kidney; they completely surrounded the large abdominal blood-vessels, and descended with them into the pelvis. They also were attached to the cellular capsule of the diseased kidney, and extended be-*

which was noticed in a defined portion of the renal tumour only. A few of the mesenteric glands, also, exhibited the same morbid appearances. The spleen was natural in size and external appearance; but so soft that its substance escaped from a wound in the capsule, as though it had been composed of grumous blood only.

*Thorax.*—The lungs, *trachea*, and *bronchial tubes* were perfectly healthy, having no morbid adhesions on the right side, and but one or two slight and unimportant adhesions on the left. The right side of the chest contained three half-pints of pink-coloured serum; the left, one pint of rather darker colour. The heart was large; but *throughout perfectly healthy*. *In the situation of the bronchial glands, a large cluster of tumours existed, which, when cut in two, exhibited the same morbid appearances as the right kidney, and the other diseased growths in the abdomen. These morbid formations surrounded the lower part of the trachea and bronchial tubes, and projected into the anterior mediastinum.*

The *head* was not examined.

Signed by

JOSEPH HODGSON,  
JOHN INGLEBY.

neath it. In every situation they presented very similar morbid appearances to those described as existing in the kidney, save that they exhibited none of the spleen-like appearance, which was noticed in a defined portion of the renal tumour only. A few of the mesenteric glands, also, exhibited the same morbid appearances. The spleen was natural in size and external appearance; but so soft that its substance escaped from a wound in the capsule, as though it had been composed of grumous blood only.

*Thorax.*—The lungs were found perfectly healthy, having no morbid adhesions on the right side, and but one or two slight and unimportant adhesions on the left. The right side of the chest contained three half-pints (ale-measure) of pink-coloured serum; the left, one pint only. The heart was large; but healthy. At the superior part of the anterior mediastinum, a tumour, the size of a lemon, presented, consisting of diseased bronchial glands, which had advanced forwards. The same morbid structures were also found to be extended backwards into the posterior mediastinum, in front, and on the sides of the pulmonary vessels, œsophagus, trachea, and descending aorta; all of which they closely enveloped. On making a division of these tumours, they were not distinguishable from the light-coloured portions of the diseased kidney, and from the glands in the abdomen.

The *head* was not examined.

Signed by

JOHN JOHNSTONE, M. D.  
RICHARD WOOD,  
JAMES STARTIN.

The only important differences between these two statements, are, that there is no mention of “*brain-like*” substance in the tumour, in the report by Dr. Johnstone and Mr. Wood; and that, the appearances presented by the bronchial glands are, in that report, more accurately detailed. Now, “*brain-like*” matter is well known, and justly considered to be *one of the distinctions* of fungus hæmatodes: it is, therefore, improbable that it could have been overlooked by any of the parties concerned. Moreover, Dr. John-

stone's notes, (1) which were the only ones actually made upon the body at the time, and which, therefore, can alone be deemed strictly authentic, omit all notice of any such appearance, and simply designate the tumour as "*strumous*." The report, afterwards amplified from these notes by the Author (who himself dissected the body) and which formed the foundation for the statement of Messrs. Hodgson and Ingleby, (2) also includes *no mention of* "brain-like appearance;" and it is impossible that so characteristic a feature could have been unperceived either by the eye or touch, and have remained unrecorded.

To render the arguments intelligible, which are about to be adduced in corroboration of Dr. J. Johnstone's opinion, "*that the affection was strumous*", it will be expedient to transcribe the distinctive marks of fungus hæmatodes, as they are given by Wardrop, the most esteemed author on this subject; and also to cite the general characteristics of Scrofula by Portal, Gregory, Cullen, and Armstrong; and by Baillie, in reference especially to the mode in which this disease affects the kidney.

Mr. Wardrop's latest description of fungus hæmatodes occupies, in the original, ten octavo pages; but as the distinctive characteristics of the affection are alone required, it is considered unnecessary to transcribe the whole.

"This morbid growth (fungus hæmatodes), when divided, soils the knife, and appears to be chiefly composed of an opaque, whitish homogeneous substance, which has generally been compared to the *cerebral pulp*."—"The colour of the tumour is subject to consider-

(1) The following is a copy of the notes referred to.—"Externally, putrefaction. Internally, left kidney six ounces in weight, and the ureter sound. A small coagulum in the bladder, but the coats healthy. A tumour, 2½ pounds in weight, instead of the right kidney, which was throughout disorganised. A short way down the ureter of that side, was a calculus, the size of a small bean. The chain of glands accompanying the great vessels into the pelvis, all morbid—scarcely to be distinguished what they were; and some of the mesenteric glands were in the same condition. The bowels were sound, the liver healthy, the spleen soft. In the two sides of the thorax were two pints and a half of bloody fluid, the lungs were healthy, *the bronchial glands were diseased, and appeared to be strumous, like the abdominal*; the heart was large and sound."

(2) This circumstance will account for the close resemblance observable between the two reports.

able variety : commonly, it is exactly the *colour and consistence of brain*.”—“ In many hæmatoid tumours, there are distinctly insulated portions, much resembling boiled yolk of egg, both in consistence and colour. I have found this peculiar substance in most of those organs wherein fungus hæmatodes has been detected, which circumstance might lead us to consider it as forming *one of the general characters of the disease*.”—“ This fungus is remarkably *rapid in its growth*, and often acquires a *prodigious bulk*.”—“ Fungus hæmatodes is usually met with in *early life* : in this respect it differs from scirrhus, which is to be considered a disease of old age.”—“ The absorbent glands, sooner or later, become contaminated ; or fungoid tubercles form in some distant organ or organs.”—“ In all cases of primary tumour, the mass is *intersected by cellular striæ*, and the structure of *each lobe, more or less, varies* ; but *in all the diseased absorbent glands* which I have dissected, (1) they have appeared throughout of *one uniform structure*.” (2)

Mr. Wardrop makes mention of every important organ of the body, with *the exception* of the kidney, as being the primary seat of fungus hæmatodes, and states that he has never seen this organ otherwise than secondarily affected, and on this point he expressly remarks—“ Those organs in which tubercles have been observed constituting the *secondary* symptoms of fungus hæmatodes I have never found *primarily* affected.” (3)

“ In a large proportion of cases affected with fungus hæmatodes, the general disorder of the system is indicated by a peculiarly unhealthy aspect, a sallow greenish-yellow colour of the skin, which is frequently covered with clammy perspiration.” (4)

“ In the majority of examples of fungus hæmatodes, the distemper is found affecting the same subject in a variety of parts.” (5)

Portal, Cullen, Gregory, Andral, and others, thus express them-

(1) Mr. Lawrence describes these glands, on being cut across, as resembling young potatoes when divided.

(2) Wardrop's Observations on Diseased Structures, in Baillie's Morbid Anatomy, vol. ii. p. 42 et seq.

(3) Ibid, vol. ii. p. 50.

(4) Cooper's Surgical Dictionary, p. 545

(5) Ibid, p. 546.

selves respecting scrofulous tumours, and the particular character of the disease :

“ On a vu de ces tumeurs scrophuleuses qui étoient *aussi grosses que la tête d'un enfant*: (1) or alors ce ne sont pas seulement les glandes du mésentère, ni les vaisseaux lymphatiques qui sont obstrués ; mais il s'est fait de plus une extravasation *du suc steatomateux*.” (2)

“ Les ouvertures des corps ont démontré que ces engorgemens scrophuleux étoient *de couleur et de consistance différentes*, ils sont quelquefois de la nature des loupes, et ressemblent tantôt à *de la bouillie*, tantôt à *du suif* et quelque fois à *du miel* : (3) mais, dans divers sujets, on trouve non seulement ces trois espèces de substances réunies en différentes congestions, *mais encore dans la même tumeur*, et quelque fois aussi on y reconnoît du pus.” (4)

“ The bodies of persons who have died of this disease (scrofula) show many of the viscera in a very morbid state ; and *particularly the mesentery* very much tumified, and frequently in an ulcerated state : commonly, also, there are a great many *tubercles or cysts, containing matter of various kinds*.” (5)

“ Scrofula is a disease *particularly affecting the lymphatic system*. (6)

“ Scrofulous glands, on being examined by dissection, feel somewhat softer to the touch than in their natural state ; and when laid open they are found to contain *a soft curdy matter*.” (7)

“ All periods of life are liable to scrofulous disease.”—“ In early life, the lymphatic glands, the joints, &c. suffer.”—“ *In advanced life, the disease, when it does occur, has a tendency to disorganize the abdominal viscera, the liver, the kidney, and the prostate gland*.” (8)

(1) Weighing 18lbs. Tulpus Obs. 545. Also, Lieutand Hist. Anat. Med.

(2) Portal, Anatomie Med. t. 5, p. 263.

(3) Atheroma, Steatoma, Meliceris ; Bonnet. Sepulch. Anat. Obs. 1417.

(4) Portal Anat. Med. p. 264.

(5) Cullen's Practice of Physic, obs. 1749, vol. 2. p. 461.

(6) Ibid, vol. ii. p. 462.

(7) Hooper's Med. Dict. p. 1082.

(8) Gregory's Practice of Physic, edit. 3, p. 603 and 604.



“ In such cases of scrofulous diathesis, as there is no escaping the influence of the morbid condition which prevails over the whole system, and is present everywhere in the blood, every process of nutrition will be altered, and every secretion modified; every hyperæmia accidentally produced will present a peculiar character in its symptoms, progress, duration, termination, and in the effects of therapeutic agents on it; *and every process of suppuration will furnish a fluid of equally peculiar character.*” (1)

Dr. Baillie thus describes the appearance scrofula presents, when it occurs in the kidney. “When a kidney is attacked by scrofula, and the disease has advanced to suppuration, it exhibits different appearances according to the progress it has made: sometimes there are only one or two circumscribed abscesses, containing a curdy pus, without any thing being particularly observable in the inner surface of the abscesses: frequently, however, the inner surface of the abscess is *lined with a pulpy matter*. These abscesses, generally, first destroy the *mammillary* portion of the kidney; and when they advance *very far, they destroy almost the whole of its structure, converting it into capsules, which surround a number of imperfect cavities, lined with this pulpy substance.*” (2)

From the above condensed descriptions of fungus hæmatodes, and of scrofula, the objections which naturally present themselves *against the assumption* of the former being the disease discovered in Mr. Bird’s kidney, are—

1st. The *absence*, or the extremely small proportion—even admitting their own account—of the “*brain-like appearance:*” albeit *brain-like matter, not appearance*, constitutes the *essential* feature of the disease in question, as the “*colour of the tumour is subject to considerable variety.*”

2nd. The *absence*, according to both reports, of any substance resembling in “*colour and consistence boiled yolk of egg*”—a second characteristic of fungus hæmatodes.

3rd. The duration and progress of Mr. Bird’s disease, accord-

(1) Andral, Anat. Path., *Trans.*, p. 681, vol. 1.

(2) Baillie’s Morbid Anatomy, vol. 2., p. 244.

ing to the evidence of the witnesses, is at variance with the *rapidity of growth*, and the production of fungus hæmatodes.

4th. The age of the patient (fifty-three) is an invalidating circumstance, fungus hæmatodes, being "*a disease of early life.*"

5th. The absence in Mr. Bird's case of fungoid tubercles in any of the *other* large viscera, which are so generally found in this disease.

6th. *The entire resemblance*, excepting only, that there was no extravasated blood, between what by the witnesses, was considered as *the primary tumour, and the diseased absorbent glands.*

7th. The extreme *rarity* of this affection *in the organ in question.*

On the other hand, the *positive conclusion* that the diseased appearances resulted from scrofula, rests upon the following reasonable grounds:—

1st. The morbid formations *accurately resembled* the description of scrofula, occupying the lymphatic glands and viscera given by Portal, Cullen, and Baillie.

2nd. The glandular system is the most constant seat of scrofulous disease.

3rd. The period of life of the patient, particularly predisposed him to strumous affections *of the viscera.*

4th. The description by Baillie of scrofula affecting the kidney, closely portrays *the identical appearances* presented in Mr. Bird's case, except that one of the irregular cavities, or cysts formed by the imperfect suppuration was filled with coagulated blood, and presented the red or spleen-like appearance described in the reports:— (1)

5th. To the last hours of Mr. Bird's life, *there was none* of that yellowish peculiar appearance of the countenance and surface, (cancerous cachexy as it has been termed) which constantly accom-

(1) The morbid kidney was put for a short time into weak spirit, with the intention to preserve it as a specimen of diseased structure, but *this red part*, after a little maceration turned out of (what appeared to the author), a *scrofulous* cyst, lined with the sort of membrane usually found in such cavities. On examining this "spleen-like portion" minutely, *it proved to be simple coagulation*, and no trace of morbid or organic structure, could be detected. The preparation was in consequence abandoned.

panies and indicates *malignant disease* ; but that on the contrary, he always *retained* the clearness, complexion, and fairness of skin, with the blue eye, light hair, &c. so peculiar to the strumous diathesis.

With these evidences before him, it is left to the impartial reader to determine, in his own mind, the probable *nature* of the disease under which the late Mr. Bird laboured. Let him weigh every fact, and rigidly scrutinize every inference.

### CONCLUSION THE THIRD.

It is stated by the medical witnesses, that *in their opinion and belief*, “Mr. Bird died of malignant disease in the kidney and its consequences ;” was this the case ?

The arguments against there being *any symptoms or appearances* to have determined the existence of such an organic affection of the kidney at an early period of its progress, or even after death, have been already stated, and are conclusive. Mr. Bird’s disease was essentially *strumous*, and its seeds must have been present from the earliest periods of his existence ; for it is known, that certain peculiarities of constitution, exist in all individuals *at their birth*, which lay the foundation of the different temperaments ; and by imparting a peculiar character to the functions of nutrition and secretion, become essentially the cause and origin of morbid formations ; it is also to be remembered, that the different periods of life, and various external causes, produce new modifications in the economy which may give rise to the developement of any latent vice in the constitution. To such a combination of causes, therefore, the origin of Mr. Bird’s disease, may with justice be attributed. His temperament was decidedly strumous, he had lately entered that period of life when the vital energies begin to decline, and when congestions of the different viscera are of so constant occurrence ; and he was assailed by the grief of a father for the illness

and death of a son of the highest promise. (1) To the period of this combination, (*the summer of 1828*), the origin of the disease of which Mr. Bird died is to be referred. At that period the specific action of the scrofulous diathesis was developed, *not in the kidney alone*, which had been suffering from previous functional derangement, *but throughout the glandular system*, the acknowledged seat of this affection. The kidney was but a link in the chain of the constitutional disease, *and not the cause of death*. This is corroborated by the post mortem appearances, which represent the glandular system very much diseased both in the abdomen and chest, *particularly in the latter cavity*; where, by the impediment it presented to the venous circulation, it had produced the *effusion* which is acknowledged by the witnesses to have been the *immediate* cause of Mr. Bird's death; but this effusion they assume to have been a *consequence* of the disease in the kidney. If such, however, were the case, why did it not take place into the abdomen, where the tumour was situated? In the numerous cases on record of dropsy arising from tumours, the fluid is very constantly found to occupy the containing cavity, and the distant serous-membranes, if at all, are but *secondarily* affected; such cases, where the kidney has formed the tumour, are related by Portal, (1) who indeed considers ascites a symptom of enlarged kidney, Cruveilhier, (2) Monro, (3) and Morgagni; but there is *no effusion* into the chest recorded in any of these instances, *neither was there any affection of the lymphatic glands*.

Again, if the disease in Mr. Bird's kidney be compared with similar cases, and cases acknowledged to be of a *malignant* character, in the few authorities by whom they are mentioned, the following important differences will *disprove* the morbid state of the organ or its consequences to have been the cause of death. 1st. The comparatively *small* size of the tumour. 2nd. The presence of the disease in *the absorbent glands*, and 3rd., the effusion of fluid in

(1) Mr. Bird lost his eldest son to whom he was remarkably attached in the spring of 1828.

(1) Portal Anatomie Medicale, tom v., p. 389.

(2) Cruveilhier Maladies du Rein, liv. i. p. 5.

(3) Medical Observations and Inquiries, vol. vi. p. 245.

*the chest*, and not in the abdomen, as mentioned above; whilst the succeeding facts will be established. 1st. That these diseases are generally of one or two years duration, *or even less if the disease be malignant*. 2nd. That in malignant cases death occurs from *profuse hæmaturia or purulent discharge*, and 3rd. That in these cases *the pains are acute and lancinating*, preventing the patient from pursuing the avocations of life.

The case which most resembles Mr. Bird's in the post mortem appearances, *as far as the kidney is concerned*, is communicated by Sir G. Blane to the London Medical Society. The patient was a boy who had suffered from the disease *nineteen months only* before death, which produced no symptoms to indicate the nature of the affection, no hæmaturia, no pain in the loins, etc. The only observable marks of disease were progressive distention of the abdomen, and wandering pains in that cavity, particularly in its lower part, and at last some hectic fever. The *sectio cadaveris* is thus described:—

“The enlarged kidney was covered with a membrane, it was *of an irregular figure*, was in some parts of a firm and close consistence, and in others of a loose texture, *with cells or cavities filled with a slimy fluid or cheesy matter*. It had in every respect an appearance totally different from this organ in a natural state. The whole kidney, after the fluids were discharged by cutting into different parts of it, *weighed 16lbs. 10oz.* The left kidney and *the other contents of the abdomen*, were in a natural state.” (1)

The only well authenticated cases of fungus hæmatodes of the kidney which have been found detailed by authors, are those by Langstaff and by Cruveilhier. The following is an abstract of the former case:—

“A young lady *twenty-one years of age*, of delicate constitution, dark hair and sallow complexion, suddenly experienced a *frequent desire to make water*, and in a few hours an amazing quantity was discharged. This symptom was soon succeeded by profuse hæmaturia. The next day a catheter was introduced, and *a pint and a half* of nearly pure blood was removed. The patient had frequent *bilious vomiting*, she exhibited a most ghastly appearance, and the bloody water continued for a month when it ceased; the



urine then became turbid, reduced in quantity, and deposited a *sediment like pus and mucus*. After the lapse of a second month, the above symptoms recurred, there was now pain in the *right side*, and a *tumour* was discovered in the same hypochondrium extending into the iliac region. “Dr. Haighton visited the patient a few times, and made the strictest inquiry and examination into the symptoms, but confessed, that *the nature of the tumour, and the cause of the hæmorrhage were so equivocal as to render it impossible to form a correct diagnosis.*” She was treated for *diseased liver*, which improved her health. The symptoms, however, returned again and again, and the tumour increased so rapidly in bulk, that in eighteen months it filled the right hypochondriac, lumbar, and umbilical regions, and produced *numbness of the right leg and thigh*. The kidney was now, for the first time, determined to be the seat of the disease, which was judged to be fungoid, from an obscure pulsation distinguishable in the tumour. During three following years the profuse hæmaturia, with the other accompanying symptoms reappeared several times, and Dr. Farre was consulted, who considered the disease to be in the kidney, “*but did not feel disposed to agree to its having any alliance to fungus hæmatodes, as he imagined this disease not likely to exist such a number of years without destroying life.*” The patient lived, however, another year, when she voided so much bloody urine that Mr. Langstaff observes—“*The quantity of blood lost was greater than I could have thought possible for a human being to have sustained.*” About three weeks before death this discharge ceased, and the urine became secreted in very small quantity, which was *thick and mixed with a fluid similar to cream*. Death was ushered in by great pain in the tumour, restlessness, rigors, frequent bilious vomitings and fever.

The right kidney was found to weigh 11lbs. 13oz., the left 12oz. The larger tumour consisted of *pulpy tubera* of various sizes, some two inches and a half in diameter, and one large cyst, *the internal surface of which, presented a very ragged flocculent appearance*, which was found to arise from coagulated lymph, and numerous long delicate blood-vessels; this cyst contained three pounds of coagulated blood and nearly two pints of fluid, like half dissolved blood mixed with pus. The tubera when cut across,

presented very similar appearances, containing *blood, lymph, and a most surprising number of long vessels having a tomentose appearance*. The left kidney possessed only a small portion of its natural structure, the other part being occupied by pulpy tubera. *The large veins were filled with a similar pulpy substance mixed with blood and lymph.* (1) The liver was pale; the spleen large; the mesenteric glands had a purple tint, *but they were not enlarged or changed in structure*; every other part of the body was particularly healthy and there was *no dropsy*. (2)

The second case is by Cruveilhier, which he designates "*Cancer du rein*,"—but, like the former, it is too long to transcribe at length. It is shortly thus:—A carpet-maker, 53 years of age, *five months* before he applied for relief to La Maison Royale de Sante, was seized with colic pains in the belly and *profuse hæmaturia*, which lasted a month. On his examination when admitted, a very *large* tumour was found to have formed in the left flank; there was also considerable anasarca, and the patient was worn out and debilitated: he was, besides, constantly subject to *painful and very profuse hæmorrhages* from the kidney, *from which* he sunk exhausted, a short time after his admission into the charity. The kidney, after death, was found to be *exceedingly* enlarged, and to consist of "*un tissue blanchâtre, demitransparent, aréolaire, dans les mailles duquel etait déposée une matiere blancjanuâtre concrète comme granulé*;" (3) *une zone plus excentrique était composée d'une matière demitransparent, analogue pour l'aspect, au cerveau d'un jeune enfant, dense, parcouru par des vaisseaux sanguins tres-multipliés et tres volumineux,*" (4) He goes on to state, that the tumour was covered with a capsule, in which many *large tortuous blood vessels* ramified, and that the *brain-like substance* which composed it was universally *vascular*; in some places, also, were found pouches of fibrous matter, which contained *little cancerous fungi*,

(1) This state of the veins is so common in cases of fungus hæmatodes, that the author is induced to consider it another characteristic of the advanced stages of the affection. See cases by Hey, Burns, Wardrop, Lawrence, Langstaff, Earle.

(2) Medico Chirurgical Transactions, 2nd. edit. vol. viii., p. 295, &c.

(3) "The boiled yolk of egg" of Wardrop.

(4) Cruveilhier, Maladies du Rein, l. 1.

clots of blood, a blackish fluid, and gelatinous matter. The left ureter was involved in this affection; but there was *no disease* of any other part of the body, except the anasarca; *nor were the absorbent glands at all affected*. A beautiful coloured drawing of this kidney is annexed to the description.

A third case is related by Lafosse, and quoted by Cruveilhier, which presented very much the same appearances. The patient *died from hæmaturia*. The tumour was three times the size of the left kidney, which was sound: it was composed of a number of small masses, some of which were tubercular, and others *brain-like*, (*encéphaloides*). There was *no glandular disease in the body*, but fungoid *tubercles* were found in the lungs. (1)

The last case to be cited is by Portal:—A woman, 47 years of age, *after a violent fit of grief*, (2) perceived a large tumour form in the renal region: *ascites* and anasarca came on, and she was tapped, but uselessly; hectic fever supervened, and after an illness of *a year and a half* the patient died exhausted. The belly was full of fluid, and the left kidney was *steatomatous*, and *weighed 45lbs.* (3)

Kidneys of enormous sizes, the largest weighing 60, and the lowest more than 15lbs., are mentioned by Lieutaud, Bonnetus, Morgagni, and A. T. Thompson, (4) and in these cases *no affections* of the other viscera are recorded.

The history of the late Mr. Bird's case is shortly as follows:—he voided bloody urine, for the first time, in December, 1825, which returned two or three times in the year 1826, Mr. Bird, in the intervals, enjoying his usual health. Toward the end of the year 1826, the discharge (which had never occurred to a greater extent than to discolour his urine, and to form clots, the size of "large pins heads"), entirely ceased, and *Mr. Bird considered himself well*. He insured his life in March, 1827; and it is uncertain whether he had a return of the complaint during that year, or before July, 1828, about which period he lost his eldest son, and *for the first time in his life* had what may be called a *fit of illness*. His stomach and

(1) Nouvelle Bibliothèque Médicale, 1825; also *Cruveilhier*.

(2) Having thus the same origin as Mr. Bird's disease.

(3) Portal, Cours d'Anatomie, &c. p. 329. t. v.; also, Lieutaud.

(4) London Medical and Surgical Journal, vol. xvi. p. 281.; and Edinburgh Medical and Surgical Journal, vol. xviii. p. 557.

bowels were very much disordered, and he passed about two ounces of blood by the urethra ; he had some pain in the lower part of the back, particularly over the sacrum, but *no other indication* of disease in the kidney. Cooling aperient medicines and cupping relieved these symptoms ; but he lost his appetite, was very much troubled with *indigestion and flatulence*, and became reduced in flesh. At times, however, he was so well that hopes of his recovery were *confidently entertained*, and he continued most actively engaging himself in business, with little or no assistance from medicine, until the autumn of the following year, 1830, when he accompanied Mrs. Bird to the sea side, for their mutual benefit. Soon after his return in September, *a short cough*, which he had very long complained of, increased ; a fullness was found, for the first time, in the right lumbar region, his legs became anasarcous, and his *breathing difficult*, being only accomplished in the sitting or semi-horizontal posture. His urine at this time was but *slightly* tinged with blood, and that only at *intervals*. In November, Mrs. Bird died ; and the grief arising from this event so preyed upon his spirits, that the remaining powers of his constitution gave way before it ; and on the day of her funeral, he betook himself to his bed, which he never left until his death. The cough and dropsical symptoms increased, diarrhœa came on, and, although for the last two months of his life he was scarcely visited by the hæmaturia, he sunk exhausted by the *dyspnœa* arising from the *effusion into the thorax*.

From the foregoing arguments, and from the above cases, the following is the irresistible inference,—that the late Mr. Bird *did not die of the disease in the kidney, or its consequences* ; but that his death occurred from *a combination* of causes, which could not have been foreseen by human sagacity.

#### CONCLUSION THE FOURTH.

“That Mr. Bird himself must have been aware of his suffering under an incurable disease, and, consequently, that he fraudulently effected an insurance of his life, which the office would not have accepted, had all the facts of his case been explicitly communicated.”

It can scarcely be necessary after the preceding testimony and remarks to examine this conclusion. *Proofs* have been adduced that the organic disease *was not* within the cognizance of a medical man at that early period, and that the hæmaturia *did not* in itself tend to shorten life. With the unprejudiced reader, therefore, Mr. Bird *must be acquitted of intentional fraud*, for how could he be supposed to have possessed superior knowledge on a subject of dark uncertainty, and impenetrable to the sagacity of those who have made it the study of their lives.

The evidences of several medical gentlemen consulted on this case might here be transcribed at length from the briefs of the Counsel *in corroboration* of the preceding views, but enough has been advanced already, to convince the impartial ; and, therefore, an *epitome* of their opinions will alone be requisite.

#### *Dr. A. T. Thompson's Evidence.*

Dr. Anthony Todd Thompson, Member of the Royal College of Physicians in London, Professor of Materia Medica and Medical Jurisprudence at the University of London, states, “ that from the post mortem reports, he considers Mr. Bird died of general tubercular (strumous) disease ; which he considers to be of the greatest importance in the bronchial glands, and of the least importance in the kidney, originating probably within two years, judging from analogy with other cases ; that a medical man must have detected such a disease as Mr. Bird’s if of a year’s standing, notwithstanding any concealment or even misrepresentation. He considers, under the circumstances stated by Dr. Pearson, Mr. Bird’s disease was not tending to shorten life ; and that if he were the medical officer of an Insurance Company, he should certify in favour of a person affected as Mr. Bird was, even supposing the symptoms continued up to the time of insurance. Dr. Thompson does not think the symptoms indicated in 1826, resulted from the cause which produced the morbid appearance in the kidney in 1831. Dr. T. has opened the body of an officer in the army, who suffered 12 years from diseased kidney, the gland after death weighed 15½lbs., and all the other viscera were healthy.



*Dr. J. Johnstone's Evidence.*

Dr. John Johnstone, Fellow of the Royal College of Physicians in London, and of the Royal Society, and Senior Physician to the Birmingham General Hospital, states, "he attended Mr. Bird for the first time on the 2nd of November 1830, he then made bloody water and was dropsical; he was particularly affected by difficulty of breathing and debility. On the 16th there was no bloody water, and on the 23rd Mr. Bird laboured under cough, and the difficulty of breathing, and dropsical symptoms were increased; he was particularly dejected. This was at the period of Mrs. Bird's decease. On the 26th he took to his bed; the dropsical symptoms had increased. On the 30th he was still more oppressed by them, his face was swelled, and the features tumified. Mr. Bird continued gradually declining until the 23rd of January when he died."

Dr. Johnstone attended the post mortem examination, and considers, that the immediate cause of death was probably the dropsy, whereby the circulation was impeded, added to the increased debility. He attributes the dropsy to disease of the glandular system; and that the glandular disease was the predominant disease of the system, and that the kidney was probably of the same sort of disease. Patients affected with serious disease in the kidney, or urinary organs, display remarkable external symptoms. Dr. J. thinks that if a person were seriously affected with a disease of the kidney as early as the beginning of 1826, the outward appearance of the patient would indicate the existence of the disease to any experienced medical man in 1827, if there were so much progress of the disease, as to prevent the usual exercise of the organ,—*i. e.* if there was organic disease,—it might also be detected by manual examination if there were no dropsy." Dr. J. also considers, "that as Mr. Bird attended with assiduity to his profession until 1830, and indulged in the pleasures of society and the table, it is not probable that he was the subject of serious organic disease in 1827."

The prescriptions of Dr. Pearson seem to Dr. J., designed for gravel and affections of the digestive organs, rather than for disorganised structure.

To these opinions might be added those of Dr. Whaley, Dr. Birt Davies, and Mr. Hemming ; but the desire of no longer trespassing on the indulgence of the reader, by unduly extending the limits of this inquiry, must preclude that addition being made. It need only be said, that these opinions substantially coincide with the previous testimonies. Dr. Whaley's evidence may, however, seem to claim an exception, on the ground of his having actually attended and known Mr. Bird during the progress of his case ; and, under this impression, it is briefly subjoined.

*Dr. Whaley's Evidence.*

Dr. William John Whaley, Physician to the Bloomsbury Dispensary, states, " that he intimately knew the late Mr. Bird, since 1824 ; but though he advised Mr. B. frequently for derangements of his health, he was never aware of his having any serious illness before November, 1828 ; and had such been the case, from his constant transactions with Mr. Bird, Dr. W. must have known it. From the post mortem reports, Dr. W. considers the case to have been one of scrofula, and the immediate cause of death the effusion into the chest, producing obstruction to respiration and circulation. Dr. W. is also of opinion that the disease in the kidney might have originated a short time before death, and from his knowledge of Mr. Bird should say probably within twelve or eighteen months. In the early part of the year 1828, Dr. W. was much in Mr. Bird's company, for several days together at different times, and it would not have escaped his observation and inquiry, had Mr. Bird been labouring under disease of the kidney of one or two years standing Mr. Bird did not appear more pulled down than a patient suffering from indigestion. Dr. W. is of opinion, Dr. Pearson's prescriptions were given for gravel or affection of the digestive organs, and certainly not for any organic disease of the kidney."

